

# **EXHIBIT 5**



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# Transcript of Pierce Robertson

**Date:** January 26, 2023  
**Case:** Robertson, et al. -v- Cuban, et al.

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF FLORIDA  
3                   MIAMI DIVISION

4                   - - - - - x  
5                 PIERCE ROBERTSON, RACHEL :  
6                 GOLD, SANFORD GOLD, RAHIL :  
7                 SAYED, CHRISTOPHER : Case No.  
8                 EHRENTRAUT, TODD : 1:22-cv-22538  
9                 MANGANIELLO, DAN NEWSOM, :  
10                WILLIAM AYER, ANTHONY :  
11                DORN, DAMECO GATES, :  
12                MARSHALL PETERS, and :  
13                EDWIN GARRISON, on behalf :  
14                of themselves and all :  
15                others similarly :  
16                situated, :  
17                : :  
18                Plaintiffs, :  
19                : :  
20                vs. :  
21                : :  
22                MARK CUBAN, and DALLAS :  
23                BASKETBALL LIMITED, d/b/a :  
24                DALLAS MAVERICKS, :  
25                : :  
26                Defendants.

27                   - - - - - x

28                   Videotaped Deposition of

29                   PIERCE ROBERTSON

30                   Chicago, Illinois

31                   Thursday, January 26, 2023

32                   9:05 a.m.

33                   Job No.: 478139

34                   Pages: 1 - 326

35                   Stenographically Reported By:

36                   JENNIFER L. BERNIER, CSR, RMR, CRR

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1	had to invest or you had to have on your app a	11:39:01
2	certain amount of that token to earn interest?	11:39:05
3	A There were minimums for that token, and	11:39:10
4	there were incentives for holding the VGX token to	11:39:12
5	get higher interest.	11:39:16
6	Q That's right. But I'm focused on the	11:39:17
7	minimums.	11:39:20
8	A Yes.	11:39:20
9	Q If you didn't have -- if you held a token	11:39:20
10	which was on their schedule but didn't have the	11:39:23
11	minimum amounts, you didn't earn interest?	11:39:27
12	A I believe that's the case.	11:39:31
13	Q Yeah. And that USDC is a token, right?	11:39:33
14	A Correct.	11:39:54
15	Q It's a stablecoin?	11:39:54
16	A Correct.	11:39:56
17	Q Bitcoin is a token, right?	11:39:58
18	A Yes.	11:40:03
19	Q And Ethereum is a token, right?	11:40:04
20	A Yes.	11:40:08
21	Q They were on a different schedule on the	11:40:09
22	Voyager platform than all of the other tokens,	11:40:13
23	right?	11:40:16
24	A I don't recall. I just recall that the	11:40:16
25	minimums were pretty low amounts, where any average	11:40:18

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1 investor would be -- would have been able to meet 11:40:24  
2 the minimum thresholds. They weren't -- they 11:40:26  
3 weren't very high. 11:40:29

4 But I don't know which ones were higher in 11:40:30  
5 U.S. dollar value than the others. I don't recall. 11:40:33

6 Q Okay. Well, Ethereum's was -- you had to 11:40:35  
7 have a -- have an Ethereum token to participate in 11:40:39  
8 the earned -- 11:40:42

9 A Okay. 11:40:43

10 Q -- program account, interest-bearing 11:40:43  
11 program. And Ethereum, during the periods of time 11:40:46  
12 we're talking about, was trading in thousands of 11:40:50  
13 dollars per token, right? 11:40:52

14 A Okay. 11:40:54

15 Q So at least with Ethereum, you had to have, 11:40:54  
16 at minimum at times, over \$500 of Ethereum? 11:41:00

17 MR. BUSHMAN: Object to the form. 11:41:05

18 BY MR. BEST: 11:41:06

19 Q Do you have any reason to doubt that? 11:41:06

20 A I don't. 11:41:08

21 Q Okay. So whatever -- however you want to 11:41:09  
22 characterize the minimums -- 11:41:14

23 A Mm-hmm. 11:41:15

24 Q -- there were minimum thresholds that you 11:41:16  
25 had to, as a customer, satisfy before you earned 11:41:19

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1	interest on a specific token?	11:41:22
2	A That's correct.	11:41:24
3	Q So then as you described, there were	11:41:25
4	rewards, like promotional rewards, right, where you	11:41:37
5	got free crypto for signing up?	11:41:41
6	A Some people did, yes.	11:41:44
7	Q You didn't?	11:41:45
8	A I don't believe so, no.	11:41:46
9	Q All right. Did you know about the Voyager	11:41:47
10	rewards program?	11:41:53
11	A When I --	11:41:54
12	Q And promotional opportunities?	11:41:56
13	A I didn't give it any attention when I	11:41:59
14	initially signed up.	11:42:01
15	Q Okay.	11:42:03
16	A I spoke of it later to people.	11:42:03
17	Q All right. And so you spoke of it later to	11:42:06
18	people to -- because there was a promotional	11:42:08
19	campaign to earn free crypto if you referred a	11:42:12
20	friend or referred somebody to the platform, right?	11:42:17
21	A There was that, as well as the Mavericks	11:42:19
22	promotion that I recall.	11:42:24
23	Q Right. You didn't sign up for the Mavericks	11:42:25
24	promotion, right?	11:42:28
25	A I did not.	11:42:29

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1	Q Okay. You didn't sign up for any of the	11:42:30
2	Mavericks promotions, right?	11:42:32
3	A I didn't recall that there were more than	11:42:34
4	one; but no, I did not.	11:42:37
5	Q Okay. And so in the Mavericks promotion --	11:42:39
6	let's just focus on that for a second since you	11:42:41
7	mentioned it.	11:42:45
8	The Mavericks promotion was in October of	11:42:46
9	2021, right?	11:42:48
10	A Yes.	11:42:49
11	Q All right. You had been an accountholder of	11:42:50
12	Voyager for months before that promotion came	11:42:53
13	online, right?	11:42:58
14	A Yeah. I heard about Voyager for the first	11:42:59
15	time. I never heard of it -- I heard Mark speak of	11:43:01
16	it on some kind of online video in April, and I	11:43:05
17	downloaded the app and was not in a rush to use it	11:43:09
18	or anything; but that was when I first downloaded	11:43:13
19	it.	11:43:15
20	Q I'm going to ask you, when we break for	11:43:16
21	lunch, to work with your counsel from the Moskowitz	11:43:19
22	firm and from Boies Schiller, a very well-known firm	11:43:24
23	with lots of lawyers, to locate where Mr. Cuban made	11:43:29
24	any comment about Voyager prior to October 28 in the	11:43:40
25	public forum. Okay?	11:43:43

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1 A I can tell you when he did it. I personally 11:43:45  
2 spent hours at multiple times trying to locate, on 11:43:47  
3 videos, anything. And Mark and his people have done 11:43:49  
4 a very good job removing any mention of Voyager, and 11:43:53  
5 I wasn't able to find anything. 11:43:55

6 Q Okay. Do you know that Mr. Cuban removed it 11:43:57  
7 from the Internet? 11:43:59

8 A Somebody did. 11:44:00

9 Q Okay. I'm going to ask you for what your 11:44:02  
10 factual basis is that it was removed. 11:44:07

11 A Because I'm unable to find any -- 11:44:11

12 Q Okay.

16 MR. BUSHMAN: Hold on. Hold on. Allow him 11:44:17  
17 to finish his answer, and then you can ask the next 11:44:18  
18 question. 11:44:21

19 MR. BEST: Sure. 11:44:21

20 THE WITNESS: I recall a video where he 11:44:21  
21 mentioned platforms that were easy for beginners 11:44:23  
22 and, in the same sentence, is mentioning Robinhood 11:44:26  
23 and Coinbase, mentioned Voyager in and around the 11:44:30  
24 time that I downloaded the app. 11:44:32

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1	BY MR. BEST:	11:44:34
2	Q Do you know that he didn't know about	11:44:35
3	Voyager as a platform and then never had used it	11:44:36
4	until maybe September of 2021?	11:44:40
5	MR. BUSHMAN: Object to the form.	11:44:42
6	BY MR. BEST:	11:44:44
7	Q Do you know that?	11:44:45
8	A I don't believe that is true. In fact,	11:44:46
9	Mark --	11:44:49
10	Q Do you know that?	11:44:49
11	A Do I --	11:44:49
12	Q Do you know that Mr. Cuban used the Voyager	11:44:50
13	platform before September of 2021?	11:44:55
14	MR. BUSHMAN: Object to the form.	11:44:57
15	You can answer.	11:44:59
16	THE WITNESS: I believe that he did, based	11:44:59
17	on what I recall seeing in the video, as well as him	11:45:02
18	mentioning buying Dogecoin with his children or son.	11:45:07
19	BY MR. BEST:	11:45:10
20	Q He could have bought Dogecoin from any	11:45:11
21	platforms, right?	11:45:13
22	A Agreed.	11:45:14
23	Q Okay. So will you look, at lunch, with all	11:45:14
24	your counsel?	11:45:21
25	A I will take a second look.	11:45:22

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1	Q Okay. And then we can address it after	11:45:24
2	lunch.	11:45:27
3	The platform itself, the Voyager platform,	11:45:37
4	is self-directed, right?	11:45:42
5	Do you know what self-directed means? It	11:45:46
6	means you have to make your own investment	11:45:48
7	decisions.	11:45:50
8	A Yes, it is.	11:45:50
9	Q Okay. As is Coinbase, right?	11:45:51
10	A I believe so.	11:45:54
11	Q And you self-directed all your trading and	11:45:57
12	investment activity on the Voyager account, right?	11:46:06
13	A I did.	11:46:10
14	Q Nobody else was using your Voyager account	11:46:10
15	when you made trades, right?	11:46:16
16	A No. Just myself.	11:46:18
17	Q Okay. Now, I'm going to show you -- just so	11:46:19
18	we can complete the record, I'm going to show you	11:46:45
19	what's going to be marked as Robertson 43.	11:46:57
20	(Robertson Exhibit 43 was marked for	11:47:14
21	identification and attached to transcript.)	11:47:14
22	BY MR. BEST:	11:47:14
23	Q Do you see what's Robertson 43?	11:47:15
24	A I do.	11:47:18
25	Q Okay. Do you see the screenshot from the	11:47:18

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1	Voyager platform as to the schedule of interest that	11:47:21
2	Voyager will pay for holding certain thresholds of	11:47:31
3	Bitcoin?	11:47:37
4	A I do.	11:47:37
5	Q All right. Is this a fair and accurate	11:47:38
6	representation of what the schedule for Bitcoin	11:47:41
7	looked like on Voyager?	11:47:44
8	A It appears to be so.	11:47:45
9	Q All right. Do you see that, unlike other	11:47:46
10	cryptos, there is tiers of ownership and with	11:47:49
11	different interest payment amounts? And then it	11:47:55
12	tells you the amount of Bitcoin needing to be held	11:48:01
13	to earn those thresholds?	11:48:08
14	A I see that.	11:48:11
15	Q Okay. Is that -- obviously these interest	11:48:12
16	amounts change every year, right?	11:48:19
17	A Every so often, sure.	11:48:23
18	Q Was it -- by the way, were they changing	11:48:25
19	more regularly? I presume the interest amounts	11:48:28
20	change with the market conditions.	11:48:33
21	A I believe they did monthly changes on what	11:48:35
22	tokens were part of the program and what the	11:48:39
23	interest may be.	11:48:42
24	Q Okay. And so I represent that this was	11:48:43
25	screenshotted recently after Voyager went in	11:48:49

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1	Q	What is XLM?	15:27:15
2	A	XLM is the token name of Stellar.	15:27:21
3	Q	And why did you buy Stellar?	15:27:28
4	A	It was a crypto that I came across, did a	15:27:30
5		little research, and wanted to own a small amount	15:27:33
6		of, similar to some of the ones we've spoken	15:27:35
7		previously. And this one, I purchased \$245, also on	15:27:38
8		May 9th.	15:27:41
9	Q	Okay. And you purchased it with a market	15:27:42
10		price around 14 cents a token?	15:27:57
11	A	Correct.	15:28:00
12	Q	And indeed, you purchased a threshold	15:28:01
13		quantity of it to earn interest on the Voyager	15:28:06
14		platform. Do you see that?	15:28:10
15	A	I did qualify for the interest that one	15:28:11
16		month for May.	15:28:14
17	Q	And then you again, on June 22nd, sold your	15:28:15
18		entire position with a market price 3 cents lower	15:28:29
19		than you purchased it a little over a month --	15:28:35
20	A	Yeah.	15:28:39
21	Q	-- later?	15:28:39
22	A	To clarify, what I was describing earlier	15:28:39
23		with my lower value assets, including this one and	15:28:42
24		BitTorrent, I can visually remember myself looking	15:28:45
25		at my Voyager and looking from the bottom up, lowest	15:28:49

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1 value assets, and selling them all to get to fiat to 15:28:53  
2 make the transfer. 15:28:56

3 And that's as my fear of the collapse of 15:28:57  
4 Voyager is starting to grow; and I'm thinking, all 15:29:00  
5 right, well, let's get all these sold off to fiat, 15:29:03  
6 transfer. And that was the beginning stage on the 15:29:06  
7 22nd. 15:29:08

8 Q Okay. The entire crypto market for tokens 15:29:10  
9 was getting significantly lower during this period 15:29:13  
10 of time too, correct? 15:29:19

11 A It had been over it. 15:29:20

12 Q All right. And if your investment strategy 15:29:22  
13 was to hold through these market fluctuations, you 15:29:29  
14 could have transferred this token to yet another 15:29:34  
15 wallet, correct? 15:29:39

16 A Correct. What I did is, I wrote down on a 15:29:40  
17 piece of paper the quantity I sold and intended to 15:29:43  
18 once the fiat transfer was complete to repurchase 15:29:47  
19 these assets in another platform. I was trying to 15:29:50  
20 just consolidate the lower value assets I had -- 15:29:54

21 Q Mm-hmm. 15:29:57

22 A -- transfer to fiat, and then purchase. A 15:29:57  
23 lot of these smaller ones didn't have the -- you 15:30:01  
24 couldn't transfer as simple from exchange to 15:30:06  
25 exchange. 15:30:09

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1	Q Okay. But you didn't -- you didn't	15:30:09
2	investigate which -- whether or not you'd be able to	15:30:11
3	transfer this asset to one of your other wallets?	15:30:14
4	A I could confirm that it would have been	15:30:17
5	likely to transfer to a hardware wallet, but there	15:30:19
6	would have been significant fees, much like it would	15:30:22
7	have happened with the BitTorrent.	15:30:25
8	So the least expensive way would be sell it,	15:30:27
9	transfer it to your bank account in fiat, deposit	15:30:30
10	the fiat, and make a purchase in a platform outside	15:30:33
11	of Voyager, another platform; and then hold the	15:30:37
12	asset there. Because a transfer on the blockchain	15:30:41
13	would have just ate up...	15:30:44
14	Q And your decision to sell was your own	15:30:45
15	investment decision predicated upon what you were	15:30:47
16	reading in the news and what you were hearing,	15:30:50
17	correct?	15:30:52
18	A Again, it was my decision based on the	15:30:52
19	pressure of Voyager failing and trying to get things	15:30:55
20	out and --	15:30:57
21	Q Well, Voyager hadn't failed at this point,	15:30:58
22	correct?	
23	A It had begun to restrict withdrawals and	15:31:00
24	limitations on withdrawals, and that -- that was in	15:31:04
25	the group, like BitTorrent, of the first group of	15:31:08

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1 assets, my least valued ones that I sold to get out  
2 of there to repurchase in another platform.

15:31:11

15:31:14

3 Q Okay. So it was the restriction on  
4 withdrawals at this time and your concerns about  
5 what you're hearing in the market that was the  
6 impetus for the sale?

15:31:18

15:31:19

15:31:24

15:31:26

7 A I tried to make the best decision based on  
8 the pressures at the time, you know, to sell for  
9 fiat, avoid the blockchain fees.

15:31:27

15:31:30

15:31:38

10 Q Okay. Let's turn to 72.

15:31:41

11 MR. BEST: Is it 72 we're on?

15:31:45

12 MR. BUSHMAN: Yes.

15:31:46

13 (Robertson Exhibit 72 was marked for  
14 identification and attached to transcript.)

15:31:46

15 BY MR. BEST:

16 Q Do you see Robertson 72?

15:32:11

17 A I do.

15:32:12

18 Q You see it's a demonstrative exhibit of your  
19 trading in a crypto token called VeChain?

15:32:13

15:32:16

20 A I do.

15:32:23

21 Q Same stipulations and same standing  
22 objection apply.

15:32:26

15:32:28

23 Do you know that VET, or VeChain, is not on  
24 the Voyager EPA program?

15:32:30

15:32:37

25 A Correct.

15:32:39

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1	Q So there was no interest paid or earned?	15:32:39
2	A Correct. This was bought for my own	15:32:41
3	interest, to hold.	15:32:44
4	Q Okay. And why did you buy VET?	15:32:44
5	A It was one of interest to me that I wanted	15:32:47
6	to hold onto a small amount, similar to the previous	15:32:50
7	two we just discussed.	15:32:52
8	Q Okay. All right. Voyager didn't tell you	15:32:53
9	to buy VeChain, correct?	15:32:58
10	A Correct.	15:33:01
11	Q Mr. Cuban didn't tell you to buy VeChain,	15:33:01
12	correct?	15:33:11
13	A Correct.	15:33:11
14	Q Okay. Let's turn to the next one, 73.	15:33:12
15	(Robertson Exhibit 73 was marked for	15:33:26
16	identification and attached to transcript.)	15:33:27
17	BY MR. BEST:	15:33:27
18	Q Do you see 73?	15:33:30
19	A I do.	15:33:31
20	Q This is a demonstrative exhibit of your	15:33:32
21	trading data extracted from your investment summary	15:33:38
22	on Fantom?	15:33:43
23	A Correct.	15:33:45
24	Q And do you see that -- with the same	15:33:45
25	stipulations and same standing objection, do you see	15:33:49

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1	that there was a buy of Fantom on May 11, 2022?	15:33:53
2	A I do.	15:34:00
3	Q And the Fantom token abbreviation is FTM?	15:34:00
4	A Correct.	15:34:06
5	Q What caused you to buy Fantom on May 11th?	15:34:06
6	A Same reason as the previous tokens, things	15:34:10
7	that I wanted to own a small amount. This one, I	15:34:15
8	put \$1,500 in on May 11 to have and hold some Fantom	15:34:19
9	token.	15:34:24
10	Q Okay. And you sold on June 22nd, correct?	15:34:25
11	A Again, this was grouped in like the previous	15:34:30
12	two or three we had spoke about that were in the	15:34:34
13	lower value that I initially sold so that I could	15:34:37
14	transfer to fiat and repurchase on a different	15:34:40
15	exchange.	15:34:43
16	Q All right. Do you see the drop in market	15:34:43
17	price on Fantom?	15:34:45
18	A I do.	15:34:47
19	Q All right. So within about a month and a	15:34:47
20	week or two, within a six weeks' period of time, the	15:34:51
21	market price dropped from 43 cents a share to	15:34:54
22	26 cents. Do you see that?	15:35:00
23	A I do.	15:35:01
24	Q And was that consistent with your	15:35:02
25	recollection of how the market price for Fantom was	15:35:05

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1	dropping?	15:35:07
2	A Yes. I would have liked to hold that one	15:35:08
3	through.	15:35:10
4	Q And -- well, let me ask you this: Do you	15:35:11
5	have your phone?	15:35:19
6	A Mm-hmm.	15:35:19
7	Q Can you look and see what Fantom is trading	15:35:20
8	at right now?	15:35:23
9	A My service in here has not been good, but I	15:35:24
10	can look.	15:35:27
11	MR. KNIGHT: You have to get a Wi-Fi.	15:35:28
12	THE WITNESS: Yeah. It was jumping on and	15:35:31
13	off it. Let's see.	15:35:33
14	I haven't looked at Fantom probably in close	15:35:34
15	to a year, so I don't know anything about it. 48	15:35:37
16	cents, 48.16.	15:35:47
17	BY MR. BEST:	15:35:53
18	Q Okay. So when you sold for 26 cents --	15:35:53
19	A I sold under the pressures at the time when	15:35:55
20	I grouped it in my lower ones. I wish I could have	15:35:57
21	held that through until now because it would be in	15:36:00
22	the green.	15:36:03
23	Q What was precluding you from selling on your	15:36:03
24	Voyager platform and repurchasing it on another	15:36:07
25	platform if you wanted to do a long hold?	15:36:10

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1	A Nothing was, other than the time between	15:36:12
2	getting it into the other account and whatever the	15:36:15
3	price fluctuations could have been, three days for	15:36:18
4	the money to post on the way out and three days to	15:36:22
5	post on the way in to the new exchange, almost a	15:36:24
6	week's time. So as you can see, the market	15:36:27
7	fluctuates a lot in a week in this period of time.	15:36:31
8	Q But you could have bought it with the cash	15:36:34
9	that you got, \$902, on another crypto wallet	15:36:36
10	exchange, correct?	15:36:40
11	A Yes. That was -- that was my goal, was to	15:36:40
12	try and repurchase these assets we've been speaking	15:36:42
13	about, the last three or four, on another exchange,	15:36:45
14	yes.	15:36:48
15	Q And did you indeed purchase Fantom on	15:36:48
16	another exchange?	15:36:51
17	A I don't recall if I bought Fantom again.	15:36:52
18	Q Okay.	15:36:54
19	A I don't believe so, though.	15:36:55
20	Q Okay. But nothing was precluding you from	15:36:56
21	doing that?	15:37:01
22	A No.	15:37:02
23	Q Okay. Let's turn to 74.	15:37:03
24	(Robertson Exhibit 74 was marked for	15:37:23
25	identification and attached to transcript.)	15:37:25